

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Jobie Howard v. Eaton Corporation

No. No. 16-0055, Supreme Court of Appeals of West Virginia (November 10, 2016)

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed summary judgment for Eaton Corporation in a products-liability action arising from electrical-burn injuries sustained while the petitioner worked on an energized motor control center. The court held that the petitioner failed to establish that Eaton had a duty to include a shut-off switch or that the motor control center was defective due to inadequate warnings, particularly because the equipment was manufactured to customer specifications and the petitioner knew of the available means to de-energize it. The court declined to consider the petitioner’s argument concerning subsequent remedial measures because it was not properly raised below.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Menis E. Ketchum; Justice Brent D. Benjamin; Justice Margaret L. Workman; Justice Allen H. Loughry II; Justice Robin Jean Davis
JURISDICTION	West Virginia
DECIDED	November 10, 2016
DOCKET	No. 16-0055
DISPOSITION	affirmed
PROCEDURAL POSTURE	Howard appealed the Circuit Court of Mingo County's order granting Eaton Corporation's motion for summary judgment in a products-liability action involving injuries caused by an electrical arc fault.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	memorandum decision; no substantial question of law identified
PARTIES	Jobie Howard v. Eaton Corporation

TOPICS

- products liability
- strict liability
- summary judgment
- comparative fault
- preservation of error

PRACTICE AREAS

products liability

strict liability

summary judgment

appellate procedure

evidence

QUESTIONS PRESENTED

1. Whether Eaton was required by West Virginia mining safety regulations or other cited rules to manufacture the custom motor control center with a shut-off switch.
2. Whether a genuine issue of material fact existed as to whether Eaton was responsible for the absence of a main breaker disconnect.
3. Whether the motor control center was defective because Eaton failed to warn that it lacked a built-in switch to de-energize the equipment, and whether any failure to warn proximately caused Howard's injuries.
4. Whether evidence of subsequent installation of a shut-off switch warranted reversal of summary judgment under West Virginia Rule of Evidence 407.

HOLDINGS

1. Howard failed to demonstrate that the cited miners' health, safety, and training regulations applied to Eaton or imposed a duty on Eaton to manufacture the motor control center with components not included in the customer's specifications; therefore, no genuine issue of material fact existed on that theory.
2. The undisputed evidence established that Robertson and Arch selected the motor control center's configuration and that Eaton manufactured it as designed and ordered; therefore, Eaton was not shown to have independently decided to omit the shut-off switch, and summary judgment was proper.
3. No genuine issue of material fact existed as to whether the motor control center was defective because of a failure to warn or whether any alleged failure to warn proximately caused Howard's injuries. Howard knew the equipment was energized, knew the hazards, was instructed to de-energize it, knew warnings and instructions existed, and presented no evidence that additional warnings would have been read or heeded.
4. The Court declined to address Howard's Rule 407 argument because the issue was not properly raised and developed below, and because the record showed that Arch and Robertson, not Eaton, modified the electrical distribution system after the accident.

KEY QUOTATIONS

"A circuit court's entry of summary judgment is reviewed de novo." (at 2)

"In a comparative negligence or causation action the issue of apportionment of negligence or causation is one for the jury or other trier of the facts, and only in the clearest of cases where the facts are undisputed and reasonable minds can draw but one inference from them should such issue be determined as a matter of law."
(at 5)

"Our general rule . . . is that when nonjurisdictional questions have not been decided at the trial court level

and are then first raised before this Court, they will not be considered on appeal.” (at 6)

FACTUAL BACKGROUND

While working for Arch Coal, Jobie Howard entered an energized 480-volt motor control center manufactured by Eaton to install a ground wire. Howard knew the equipment was energized, knew the risks of working on energized equipment, was instructed to de-energize it, and had two available means of doing so, but chose to work on it while energized. An uninsulated wrench contacted an energized component, causing an arc fault that seriously burned Howard and a coworker. The motor control center had been custom-manufactured by Eaton according to specifications selected by Robertson P & E, the electrical contractor hired by Arch, and those specifications did not include a main breaker disconnect.

PROCEDURAL HISTORY

Howard filed an amended complaint alleging strict products liability, failure to warn, and breach of implied warranty concerning an Eaton-manufactured motor control center. Eaton moved for summary judgment, and after a hearing the circuit court granted the motion on December 22, 2015. The Supreme Court of Appeals of West Virginia affirmed by memorandum decision.

DISPOSITION

affirmed

CASES CITED

- Painter v. Peavy, 192 W. Va. 189, 451 S.E.2d 755 (1994)
- Aetna Casualty & Surety Co. v. Federal Insurance Co. of New York, 148 W. Va. 160, 133 S.E.2d 770 (1963)
- Andrick v. Town of Buckhannon, 187 W. Va. 706, 421 S.E.2d 247 (1992)
- Toth v. Bd. of Parks & Recreation Comm’rs, 215 W. Va. 51, 593 S.E.2d 576 (2003)
- Ilosky v. Michelin Tire Corp., 172 W. Va. 435, 307 S.E.2d 603 (1983)
- Bradley v. Appalachian Power Co., 163 W. Va. 332, 256 S.E.2d 879 (1979)
- Reager v. Anderson, 179 W. Va. 691, 371 S.E.2d 619 (1988)
- Whitlow v. Bd. of Educ. of Kanawha County, 190 W. Va. 223, 438 S.E.2d 15 (1993)

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